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13 Attorneys for Defendants  
14 CITY OF SAN BUENAVENTURA (erroneously  
15 sued herein as separate defendants "The City of  
16 San Buenaventura" and "The San Buenaventura  
17 Police Department"), and OFFICER ERIC JACKSON

18 UNITED STATES DISTRICT COURT  
19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 GABRIEL AMARO, an individual,

21 Plaintiff,

22 v.

23 THE CITY OF SAN  
24 BUENAVENTAURA, THE SAN  
25 BUENAVENTURA POLICE  
26 DEPARMENT, OFFICER ERIC  
27 JACKSON, and DOES 1 – 10,  
28 Inclusive,  
29 Defendants.

Case No.: CV12-06735-VBK

**ANSWER TO FIRST AMENDED  
COMPLAINT FOR DAMAGES**

Defendants City of San Buenaventura and Officer Eric Jackson answer the First Amended Complaint of plaintiff Gabriel Amaro as follows:

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**RESPONSE TO ALLEGATIONS**

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3 1. Answering paragraphs 1, 2, 3 and 4 of the First Amended Complaint, these  
4 answering defendants admit that the plaintiff is making the contentions alleged therein.

5 2. Answering paragraph 5 of the First Amended Complaint, these answering  
6 defendants admit the allegations made therein.

7 3. Answering paragraphs 6 and 7 of the First Amended Complaint, these  
8 answering defendants deny the allegations therein, as the City of Ventura Police  
9 Department is not a separate and distinct public entity from the City of San  
10 Buenaventura and can therefore not be sued in its own capacity.

11 4. Answering paragraph 8 of the First Amended Complaint, these answering  
12 defendants admit that the plaintiff is making the contentions alleged therein.

13 5. Answering paragraph 9 of the First Amended Complaint, these answering  
14 defendants admit the allegations made in the first sentence; with respect to the second  
15 sentence of said paragraph, these answering defendants admit that the plaintiff is  
16 making the contentions alleged therein.

17 6. Answering paragraph 10 of the First Amended Complaint, these answering  
18 defendants admit that the plaintiff is making the contentions alleged therein.

19 7. Answering paragraph 11 of the First Amended Complaint, these answering  
20 defendants deny the allegations made therein.

21 8. Answering paragraphs 12 and 13 of the First Amended Complaint, these  
22 answering defendants have insufficient facts to admit or deny the allegations made  
23 therein.

24 9. Answering paragraphs 14 and 15 of the First Amended Complaint, these  
25 answering defendants deny the allegations made therein.

26 10. Answering paragraph 16 of the First Amended Complaint, these answering  
27 defendants have insufficient facts to admit or deny the allegations made therein.  
28

1 11. Answering paragraphs 17-21 of the First Amended Complaint, these  
2 answering defendants deny the allegations made therein.

3 12. Answering paragraph 22 of the First Amended Complaint, these answering  
4 defendants deny the allegations made therein, except that they admit that medical  
5 assistance was summoned for the plaintiff.

6 13. Answering paragraphs 23-26 of the First Amended Complaint, these  
7 answering defendants deny the allegations made therein.

8 14. Answering paragraphs 27 and 28 of the First Amended Complaint, these  
9 answering defendants admit that the plaintiff is making the contentions alleged therein.

10 15. Answering paragraphs 29-31 of the First Amended Complaint, these  
11 answering defendants deny the allegations made therein.

12 16. Answering paragraphs 32-34 of the First Amended Complaint, these  
13 answering defendants admit that the plaintiff is making the contentions alleged therein.

14 17. Answering paragraphs 35-36 of the First Amended Complaint, these  
15 answering defendants deny the allegations made therein.

16 18. Answering paragraph 37 of the First Amended Complaint, these answering  
17 defendants admit that the plaintiff is making the contentions alleged therein.

18 19. Answering paragraphs 38-40 of the First Amended Complaint, these  
19 answering defendants deny the allegations made therein.

20 Prayer. These answering defendants deny the allegations made therein.

21 **AFFIRMATIVE DEFENSES**

22 1. At all times herein mentioned, plaintiff knew of the risks involved in his  
23 actions and conduct, and with full knowledge of such risks and appreciating the dangers  
24 thereof, nevertheless voluntarily assumed such risks; that by reason of the premises,  
25 plaintiff is barred from recovery herein.

26 2. The incident mentioned in plaintiff's First Amended Complaint and the  
27 resultant damages and/or injuries, if any, sustained by plaintiff, were directly and  
28 proximately caused and contributed to by the negligence, carelessness, and/or

1 recklessness of the plaintiff in that at about the time and place set forth in plaintiff's  
2 First Amended Complaint, the plaintiff failed to use due care and caution and  
3 circumspection for his own safety and the damages, if any, recoverable by said plaintiff  
4 shall be and will be diminished in proportion to the amount of fault attributable to said  
5 plaintiff.

6 3. These answering defendants allege that any injury or damage, or loss, if  
7 any, complained of by the plaintiff herein was not only proximately caused and  
8 contributed to, but was solely, directly and proximately caused by negligence on the  
9 part of plaintiff in that plaintiff did not exercise ordinary care on his own behalf at the  
10 time and place as set forth in the First Amended Complaint on file herein.

11 4. The injuries and damages alleged by plaintiff, if any, were proximately  
12 caused by the negligence and liability of other parties, and defendants request that an  
13 allocation of such negligence and liability be made among such other parties, and that if  
14 any liability is found on the part of defendants, that judgment against defendants be  
15 only in the amount which is proportionate to the extent and percentage by which  
16 defendants' acts or omissions contributed to plaintiff's injuries or damages.

17 5. Plaintiff has failed to mitigate his damages and/or injuries.

18 6. The First Amended Complaint, and each of its claims, fails to state facts  
19 sufficient to constitute a claim.

20 7. The First Amended Complaint is barred by the qualified immunity  
21 doctrine.

22 8. At all times herein mentioned, any injury to plaintiff arose out of the  
23 course of employment, for which plaintiff has, or is entitled to receive, workers'  
24 compensation benefits; plaintiff's employer and its employees, including plaintiff, were  
25 acting within the scope of their said employment, and were themselves negligent in that  
26 they failed to exercise ordinary care under the circumstances, failed to provide plaintiff  
27 with a safe place of employment, failed to comply with certain other safety  
28 requirements, and otherwise acted in willful and wanton disregard for the safety of

1 plaintiff and others; that said wrongful conduct proximately caused any injuries and  
2 damages to plaintiff; by reason of the premises, any recovery by plaintiff must be  
3 reduced by the amount of workers' compensation benefits paid to or to be paid.

4 **DEMAND FOR JURY TRIAL**

5 Defendants City of San Buenaventura and Officer Eric Jackson hereby demand a  
6 jury trial.

7 **PRAYER**

8 Wherefore, defendants City of San Buenaventura and Officer Eric Jackson pray:

- 9 1. That the First Amended Complaint be dismissed and that plaintiff take  
10 nothing;  
11 2. For attorneys fees and costs; and  
12 3. For such other and further relief as the Court deems just and proper.  
13

14 Dated: October 25, 2012

OFFICE OF THE CITY ATTORNEY  
CITY OF SAN BUENAVENTURA

17 By: 

18 Andy H. Viets

19 Senior Assistant City Attorney  
20 Attorneys for Defendants  
21 CITY OF SAN BUENAVENTURA  
22 and OFFICER ERIC JACKSON  
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